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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,117	03/12/2004	Daniel P. Guyton	30011.24987	7081

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EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/799,117

Applicant(s)

GUYTON ET AL.

Examiner

Joseph F. Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02 March 2005 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,113,188 to Stewart et al.

Stewart et al. disclose a seat apparatus that is basically the same as that recited in claims 1-3 and 6-8 except that the valve connection location is not specified and the rear portion height is not specified, as recited in the claims. See Figures 1-7 of Stewart et al. for the teaching that a seat apparatus has a rigid base 12 (Fig. 1), a one-piece inflatable bladder 16 (Fig. 2) with a front portion (Fig. 4), a rear portion (Fig. 3), and first

Art Unit: 3636

and second trapezoidal shaped side panels (Fig. 2), a first valve 30 (Fig. 4) connected to the bladder, a second valve 32 (Fig. 4) connected to the bladder, a compartment (Fig. 5) located at one of the first and second side panels, a rechargeable, self-contained air compressor 18 (Fig. 5) positioned in the compartment, a hose (see column 3, lines 7-9) operatively connected to an output of the compressor at a first end and to the valve at a second end, and a cover 14 (Fig. 1) positioned over the bladder and connected to the base wherein the front and rear portions initially rise in unison, and the seat apparatus has a valve *capable* of inflation and deflation of the bladder, as recited in claim 1 of instant application. Although Stewart et al. does not show the specific locations the operative connections of the first and second valves on one of the first and second side panels of the bladder, shifting the location of parts would have been within the general skill of a worker in the art and it would have been well within the purview and obvious to locate the first and second valves as claimed. Also, modifying the height of the rear portion of the bladder would have been obvious at the time of the instant application because the use of optimal workable ranges discovered by routine experimentation is ordinarily with the general skill of a worker in the art. Further, it would have been an obvious matter of design choice to modify the height of the rear portion of the bladder since Applicant has not disclosed that having the specific height range solves any stated problem or is for any particular purpose, and it appears that the bladder would perform equally well with any well known height range used in the seat art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat apparatus of Stewart et al. such that the first and second

Art Unit: 3636

valves are each operatively connected to one of the first and second side panels of the bladder, the rear portion is at least three times the height of the front portion when the bladder is inflated, and the rear portion is approximately 7 inches higher than the front portion at full inflation.

4. Claims 4, 5, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. as applied to claims 1-3 and 6-8 above, and further in view of U.S. Patent No. 6,264,279 B1 to Chow.

Stewart et al., as modified, disclose a seat apparatus that is basically the same as that recited in claims 4, 5, 9, and 10 except that the cover lacks a connecting means, as recited in the claims. Chow shows a seat apparatus similar to that of Stewart et al. wherein a cover 268 (Fig. 14a) has a removable connecting means and contains material to minimize slippage. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat apparatus of Stewart et al. such that the cover has a removable connecting means and contains material to minimize slippage, such as the seat apparatus disclosed in Hayakawa et al. One would have been motivated to make such a modification in view of the suggestion in Chow that the removable cover protects from debris and is water resistant.

### ***Response to Arguments***

5. Applicant's arguments filed 03 March 2006 have been fully considered but they are not persuasive. Applicant argues that Stewart et al. fail to teach first and second

Art Unit: 3636

side panel being innately trapezoidal shaped. However, Applicant is interpreting this limitation too narrowly. To be trapezoidal shaped means to be shaped *liked* a trapezoid. The limitation does not require that the side panels have a specific construction but merely requires that the side panels resemble trapezoids. Modifying the "trapezoidal shaped" limitation to be innately simply requires that this be a possessed characteristic, nothing more. Because the side panels are shaped *like* trapezoids, the limitations of amended claims 1 and 6 are still met by Stewart et al. Moreover, Examiner asserts that the polyurethane tube forming the bladder of Stewart et al. is inherently constructed such that the side panels are parallel prior to placement within the seat apparatus. Therefore, the side panels are innately trapezoidal shaped, even under the narrowly interpretation of Applicant.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3636


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



March 20, 2006



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